



Journal of the Senate

State of Indiana

115th General Assembly

First Regular Session

Thirty-sixth Meeting Day

Tuesday Afternoon

April 3, 2007

The Senate convened at 1:50 p.m., with the President of the Senate, Rebecca S. Skillman, in the Chair.

Prayer was offered by Senator Frank Mrvan, Jr.

The Pledge of Allegiance to the Flag was led by the President of the Senate.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Arnold	Lubbers
Becker	Meeks
Boots	Merritt
Bray	Miller
Breaux	Mishler
Broden	Mrvan
Deig	Nugent
Delph	Paul
Dillon	Riegsecker <input checked="" type="checkbox"/>
Drozda	Rogers
Errington	Simpson
Ford	Sipes
Gard	Skinner
Heinold	Smith
Hershman	Steele
Howard	Tallian
Hume	Walker
Jackman	Waltz
Kenley	Waterman <input checked="" type="checkbox"/>
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 333: present 48; excused 2. [Note: A ☒ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

REPORTS FROM COMMITTEES

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Engrossed House Bill 1623, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

Report adopted.

WYSS, Chair

COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Engrossed House Bill 1742, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill do pass.

Committee Vote: Yeas 10, Nays 0.

WYSS, Chair

Report adopted.

COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Engrossed House Bill 1510, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-30-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. A contract executed by the commission under this chapter must specify the reasons for a suspension or termination of the contract by the commission, including the following:

- (1) Commission of a violation of this article, IC 35-45-5-3, IC 35-45-5-4, or a rule adopted under this article.
- (2) Failure to accurately account for lottery tickets, revenues, or prizes as required by the commission.
- (3) Commission of a fraud, deceit, or misrepresentation.
- (4) Insufficient sale of tickets.
- (5) Conduct prejudicial to public confidence in the lottery.
- (6) A material change in a matter considered by the commission executing the contract with the retailer.

SECTION 2. IC 4-30-17-3.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3.5. (a) Before the twenty-fifth day of the each month, the auditor of state shall transfer make the following transfers from the build Indiana fund to:

- (1) To the state general fund motor vehicle excise tax replacement account, nineteen million six hundred eighty-four thousand three hundred seventy dollars (\$19,684,370). per month;
- (2) To the enforcement and administration fund established under IC 7.1-4-10, one hundred sixty-six thousand six hundred sixty-six dollars (\$166,666).
- (3) To the state gambling enforcement fund established under IC 4-33.5-4, forty-one thousand six hundred sixty-six dollars (\$41,666).

(b) This subsection applies only if insufficient money is available in the build Indiana fund to make the distributions to the state

general fund motor vehicle excise tax replacement account that are required under subsection (a). Before the twenty-fifth day of each month, the auditor of state shall transfer from the state general fund to the state general fund motor vehicle excise tax replacement account the difference between:

- (1) the amount that subsection (a) requires the auditor of state to distribute from the build Indiana fund to the state general fund motor vehicle excise tax replacement account; and
- (2) the amount that is available for distribution from the build Indiana fund to the state general fund motor vehicle excise tax replacement account.

The transfers required under this subsection are annually appropriated from the state general fund."

Page 2, line 26, delete "." and insert **"in a capacity that is primarily unrelated to the qualified organization's charity gaming operations."**

Page 2, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 7. IC 4-32.2-2-18.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 18.7. "Key person" means any:**

- (1) officer;**
- (2) director;**
- (3) executive;**
- (4) employee;**
- (5) trustee;**
- (6) substantial owner;**
- (7) independent owner; or**
- (8) agent;**

of a business entity that has the power to exercise management or operating authority over the business entity or its affiliates."

Page 3, between lines 30 and 31, begin a new paragraph and insert:

"SECTION 11. IC 4-32.2-2-27.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 27.5. "Substantial owner" means:**

- (1) a person holding at least a five percent (5%) ownership interest; or**
- (2) an institutional investor holding at least a fifteen percent (15%) ownership interest;**

in a business entity."

Page 3, between lines 36 and 37, begin a new paragraph and insert:

"SECTION 13. IC 4-32.2-3-3, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 3. (a)** The commission shall adopt rules under IC 4-22-2 for the following purposes:

- (1) Administering this article.
- (2) Establishing the conditions under which charity gaming in Indiana may be conducted.
- (3) Providing for the prevention of practices detrimental to the public interest and providing for the best interests of charity gaming.
- (4) Establishing rules concerning inspection of qualified organizations and the review of the licenses necessary to conduct charity gaming.

(5) Imposing penalties for noncriminal violations of this article.

(6) Establishing standards for independent audits conducted under IC 4-32.2-5-5.

(b) The commission may adopt emergency rules under IC 4-22-2-37.1 if the commission determines that:

- (1) the need for a rule is so immediate and substantial that rulemaking procedures under IC 4-22-2-13 through IC 4-22-2-36 are inadequate to address the need; and
- (2) an emergency rule is likely to address the need."

Page 4, line 21, delete ";" and insert **"and the violation would cause the commission to determine that the applicant, a key person, or a substantial owner of the applicant is not of good moral character or reputation;"**.

Page 4, line 22, delete "harmful to the best interests" and insert **"that would negatively impact the integrity of charity gaming in Indiana."**

Page 4, delete line 23.

Page 5, line 3, delete ";" and insert **"and the violation would cause the commission to determine that the applicant, a key person, or a substantial owner of the applicant is not of good moral character or reputation;"**.

Page 5, line 4, delete "harmful to the best interests" and insert **"that would negatively impact the integrity of charity gaming in Indiana."**

Page 5, delete line 5.

Page 7, line 32, delete "The" and insert **"Subject to subsection (h), the"**.

Page 9, between lines 4 and 5, begin a new paragraph and insert: **"(h) Notwithstanding IC 4-32.2-2-24, this section applies only to:**

(1) a bona fide civic organization; or

(2) a bona fide veterans organization;

that has been continuously in existence in Indiana for ten (10) years. A qualified organization that is not described in this subsection may not apply for an annual charity game night license under this section."

Page 13, line 28, after "drawing" insert **"at the raffle event"**.

Page 14, between lines 17 and 18, begin a new paragraph and insert:

"SECTION 31. IC 4-32.2-5-5, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5. (a)** A qualified organization shall maintain accurate records of all financial aspects of an allowable event under this article. A qualified organization shall make accurate reports of all financial aspects of an allowable event to the commission within the time established by the commission. The commission may prescribe forms for this purpose. The commission shall, by rule, require a qualified organization to deposit funds received from an allowable event in a separate and segregated account set up for that purpose. All expenses of the qualified organization with respect to an allowable event shall be paid from the separate account.

(b) The commission may require a qualified organization to submit any records maintained under this section for an independent audit by a certified public accountant selected by the commission. A qualified organization must bear the cost of any audit required under this section."

Page 14, line 27, strike "allowable" and insert "festival".

Page 16, delete lines 10 through 41, begin a new paragraph and insert:

"SECTION 36. IC 4-32.2-5-22, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. If an employee or officer of a manufacturer or distributor is a member of a bona fide civic or bona fide religious organization that holds a charity gaming license, the employee's or officer's membership in the organization may not be construed as an affiliation with the organization's charity gaming operations. An employee, officer, or owner of a manufacturer or distributor is prohibited from participating in or affiliating in any way with the charity gaming operations of a qualified organization of which the employee, officer, or owner is a member.

SECTION 37. IC 4-32.2-8-1, AS ADDED BY P.L.91-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) The commission may suspend or revoke the license of or levy a civil penalty against a qualified organization, a manufacturer, a distributor, or an individual under this article for any of the following:

(1) Violation of:

- (A) a provision of this article, ~~or of IC 35-45-5-3, IC 35-45-5-4, or a rule of the commission; or~~
- (B) any other local ordinance, state or federal statute, or administrative rule or regulation that would cause the commission to determine that the person is not of good moral character or reputation.

(2) Failure to accurately account for

- (A) bingo cards;
- (B) bingo boards;
- (C) bingo sheets;
- (D) bingo pads;
- (E) pull tabs;
- (F) punchboards; or
- (G) tip boards.

a licensed supply.

(3) Failure to accurately account for sales proceeds from an event or activity licensed or permitted under this article.

(4) Commission of a fraud, deceit, or misrepresentation.

(5) Conduct prejudicial to public confidence in the commission.

(b) If a violation is of a continuing nature, the commission may impose a civil penalty upon a licensee or an individual for each day the violation continues.

(c) For purposes of subsection (a), a finding that a person has violated IC 35-45-5-3 or IC 35-45-5-4 must be supported by a preponderance of the evidence."

Page 18, between lines 41 and 42, begin a new paragraph and insert:

"SECTION 42. IC 4-33-4-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1.5. The commission shall appoint the special prosecuting attorney for gambling enforcement and oversee the office of the special prosecuting attorney for gambling enforcement established under IC 4-33.5-2-1.

SECTION 43. IC 4-33.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: ARTICLE 33.5. SPECIAL PROSECUTING ATTORNEY FOR GAMBLING ENFORCEMENT

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Commission" refers to the Indiana gaming commission established under IC 4-33-3.

Sec. 3. "Office" refers to the office of the special prosecuting attorney for gambling enforcement established by IC 4-33.5-2-1.

Sec. 4. "Special prosecuting attorney" refers to the special prosecuting attorney for gambling enforcement described in IC 4-33.5-2. The term does not include a special prosecutor appointed under IC 33-39-1-6 or IC 4-2-7-7.

Chapter 2. Office of the Special Prosecuting Attorney for Gambling Enforcement

Sec. 1. There is established the office of the special prosecuting attorney for gambling enforcement. The office of the special prosecuting attorney for gambling enforcement consists of the special prosecuting attorney, who is the director of the office, and an additional staff of deputy special prosecuting attorneys, investigators, auditors, and clerical employees appointed by the special prosecuting attorney as necessary to carry out the duties of the special prosecuting attorney.

Sec. 2. The special prosecuting attorney shall do the following:

- (1) Prosecute crimes under IC 35-45-5 and initiate, supervise, and coordinate investigations relating to a violation under IC 35-45-5.
- (2) Recommend policies and carry out other activities designed to deter, detect, and eradicate illegal gambling.
- (3) Adopt rules under IC 4-22-2 to implement this chapter.
- (4) Recommend legislation to the commission and general assembly to strengthen laws relating to gambling.
- (5) Annually submit a report to the legislative council detailing the special prosecuting attorney's activities. The report must be in an electronic format under IC 5-14-6.
- (6) Prepare interpretive and educational materials and programs.

Sec. 3. (a) Except as provided in subsections (b) and (c), the special prosecuting attorney has concurrent jurisdiction with the prosecuting attorney of a county in the investigation and prosecution of a crime under IC 35-45-5.

(b) If the special prosecuting attorney discovers evidence of the commission of a crime under IC 35-45-5, the special prosecuting attorney may certify to the prosecuting attorney of the county in which the crime appears to have been committed the following information:

- (1) The identity of any person who may be involved in the criminal activity.
- (2) The specific criminal statute that the special prosecuting attorney believes has been violated.

In addition, the special prosecuting attorney shall share with the county prosecuting attorney any relevant evidence. If the county prosecuting attorney decides to prosecute the crime

described in the information certified to the county prosecuting attorney, or any other related crimes, the special prosecuting attorney shall cooperate with the county prosecuting attorney in the investigation and prosecution of the case.

(c) If:

(1) the county prosecuting attorney to whom the special prosecuting attorney issues a certification under subsection (b):

(A) is disqualified from investigating or bringing a criminal prosecution in the matter addressed in the certification;

(B) does not file an information or seek an indictment not later than ninety (90) days after the date on which the special prosecuting attorney certified the information to the county prosecuting attorney; or

(C) refers the case back to the special prosecuting attorney; and

(2) the special prosecuting attorney finds that there is probable cause to believe that a person identified in the certification under subsection (b)(1) has violated a criminal statute identified in the certification under subsection (b)(2);

the special prosecuting attorney may prosecute the case.

Sec. 4. To carry out the duties described in sections 2 and 3 of this chapter, the special prosecuting attorney has the following powers:

(1) As part of an investigation or prosecution, the special prosecuting attorney may:

(A) administer oaths;

(B) examine witnesses under oath;

(C) issue subpoenas and subpoenas duces tecum; and

(D) examine the records, reports, audits, reviews, papers, books, recommendations, contracts, correspondence, or any other documents maintained by any person.

(2) The special prosecuting attorney may apply to a circuit or superior court for an order holding an individual in contempt of court if the individual refuses to give sworn testimony under a subpoena issued by the special prosecuting attorney or otherwise disobeys a subpoena or subpoena duces tecum issued by the special prosecuting attorney.

(3) In matters within the authority of the special prosecuting attorney under this chapter, the special prosecuting attorney has the same powers as the prosecuting attorney of a county. However, the special prosecuting attorney may exercise these powers only in the investigation and prosecution of an act that is a crime under IC 35-45-5.

Chapter 3. Appointment and Eligibility

Sec. 1. The commission shall appoint the special prosecuting attorney. The special prosecuting attorney serves at the pleasure of the commission.

Sec. 2. The special prosecuting attorney and any deputy special prosecuting attorneys must be attorneys licensed to practice law in Indiana.

Sec. 3. The special prosecuting attorney is entitled to receive compensation set by the commission and approved by the

budget agency. However, the special prosecuting attorney's compensation may not exceed the minimum compensation paid to a full-time prosecuting attorney under IC 33-39-6.

Sec. 4. Subject to the approval of the budget agency, the special prosecuting attorney shall fix the salary of all other employees of the office of the special prosecuting attorney.

Chapter 4. State Gambling Enforcement Fund

Sec. 1. The state gambling enforcement fund is established.

Sec. 2. The fund consists of:

(1) money transferred to the fund under IC 4-30-17-3.5; and

(2) appropriations from the general assembly.

Sec. 3. The commission shall administer the fund.

Sec. 4. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

Sec. 5. Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 6. Money in the fund must be used by the commission to pay the operating expenses of the office.

SECTION 44. IC 6-2.5-8-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 7.** (a) The department may, for good cause, revoke a certificate issued under section 1, 3, or 4 of this chapter. However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate under this subsection.

(b) The department shall revoke a certificate issued under section 1, 3, or 4 of this chapter if, for a period of three (3) years, the certificate holder fails to:

(1) file the returns required by IC 6-2.5-6-1; or

(2) report the collection of any state gross retail or use tax on the returns filed under IC 6-2.5-6-1.

However, the department must give the certificate holder at least five (5) days notice before it revokes the certificate.

(c) The department may, for good cause, revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

(1) the certificate holder is subject to an innkeeper's tax under IC 6-9; and

(2) a board, bureau, or commission established under IC 6-9 files a written statement with the department.

(d) The statement filed under subsection (c) must state that:

(1) information obtained by the board, bureau, or commission under IC 6-8.1-7-1 indicates that the certificate holder has not complied with IC 6-9; and

(2) the board, bureau, or commission has determined that significant harm will result to the county from the certificate holder's failure to comply with IC 6-9.

(e) The department shall revoke or suspend a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if:

(1) the certificate holder owes taxes, penalties, fines, interest, or costs due under IC 6-1.1 that remain unpaid at least sixty (60) days after the due date under IC 6-1.1; and

(2) the treasurer of the county to which the taxes are due requests the department to revoke or suspend the certificate.

(f) The department shall reinstate a certificate suspended under subsection (e) if the taxes and any penalties due under IC 6-1.1 are paid or the county treasurer requests the department to reinstate the certificate because an agreement for the payment of taxes and any penalties due under IC 6-1.1 has been reached to the satisfaction of the county treasurer.

(g) The department shall revoke a certificate issued under section 1 of this chapter after at least five (5) days notice to the certificate holder if the department finds in a public hearing by a preponderance of the evidence that the certificate holder has violated IC 35-45-5-3 or IC 35-45-5-4.

SECTION 45. IC 7.1-3-18.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) Subject to subsection (b), the commission may suspend the certificate of a person who fails to pay a civil penalty imposed for violating IC 35-46-1-10, IC 35-46-1-10.2, IC 35-46-1-11.5, or IC 35-46-1-11.7.

(b) Before enforcing the imposition of a civil penalty or suspending **or revoking** a certificate under this chapter, the commission shall provide written notice of the alleged violation to the certificate holder and conduct a hearing. The commission shall provide written notice of the civil penalty or suspension to the certificate holder.

(c) Subject to subsection (b), the commission may revoke the certificate of a person if the commission finds by a preponderance of the evidence that the person has violated IC 35-45-5-3 or IC 35-45-5-4.

SECTION 46. IC 7.1-3-23-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. ~~Fine; Suspension; and Revocation; General:~~ The commission may fine, suspend, or revoke the permit, or fine and suspend or revoke, the permit of a permittee for the violation of a provision of this title, ~~or of a rule or regulation of the commission, or of IC 35-45-5-3 or IC 35-45-5-4.~~ The commission may fine a permittee for each day the violation continues if the violation is of a continuing nature. **A finding that a permittee has violated IC 35-45-5-3 or IC 35-45-5-4 must be supported by a preponderance of the evidence.**

SECTION 45. IC 7.1-3-23-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 5. ~~Revocation of Permits; General:~~ The commission shall revoke a permit of any type only on account of the violation of, or refusal to comply with, a provision of this title or of a rule or regulation of the commission, **or on account of a violation of IC 35-45-5-3 or IC 35-45-5-4. A finding that a permittee has violated IC 35-45-5-3 or IC 35-45-5-4 must be supported by a preponderance of the evidence.**

SECTION 48. IC 33-39-1-6, AS AMENDED BY P.L.222-2005, SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. **(a) This section does not apply to the special prosecuting attorney for gambling enforcement appointed to the office established by IC 4-33.5-2-1.**

~~(a)~~ **(b)** Special prosecutors may be appointed under this section or in accordance with IC 4-2-7-7.

~~(b)~~ **(c)** A circuit or superior court judge:

(1) shall appoint a special prosecutor if:

(A) any person other than the prosecuting attorney or the prosecuting attorney's deputy files a verified petition requesting the appointment of a special prosecutor; and
(B) the prosecuting attorney agrees that a special prosecutor is needed;

(2) may appoint a special prosecutor if:

(A) a person files a verified petition requesting the appointment of a special prosecutor; and
(B) the court, after:

(i) notice is given to the prosecuting attorney; and

(ii) an evidentiary hearing is conducted at which the prosecuting attorney is given an opportunity to be heard; finds by clear and convincing evidence that the appointment is necessary to avoid an actual conflict of interest or there is probable cause to believe that the prosecutor has committed a crime;

(3) may appoint a special prosecutor if:

(A) the prosecuting attorney files a petition requesting the court to appoint a special prosecutor; and
(B) the court finds that the appointment is necessary to avoid the appearance of impropriety; and

(4) may appoint a special prosecutor if:

(A) an elected public official, who is a defendant in a criminal proceeding, files a verified petition requesting a special prosecutor within ten (10) days after the date of the initial hearing; and
(B) the court finds that the appointment of a special prosecutor is in the best interests of justice.

~~(c)~~ **(d)** Each person appointed to serve as a special prosecutor:

(1) must consent to the appointment; and

(2) must be:

(A) the prosecuting attorney or a deputy prosecuting attorney in a county other than the county in which the person is to serve as special prosecutor; or
(B) except as provided in subsection ~~(d)~~, **(e)**, a senior prosecuting attorney.

~~(d)~~ **(e)** A senior prosecuting attorney may be appointed in the county in which the senior prosecuting attorney previously served if the court finds that an appointment under this subsection would not create the appearance of impropriety.

~~(e)~~ **(f)** A person appointed to serve as a special prosecutor has the same powers as the prosecuting attorney of the county. However, the appointing judge shall limit scope of the special prosecutor's duties to include only the investigation or prosecution of a particular case or particular grand jury investigation.

~~(f)~~ **(g)** The court shall establish the length of the special prosecutor's term. If the target of an investigation by the special prosecutor is a public servant (as defined in IC 35-41-1-24), the court shall order the special prosecutor to file a report of the investigation with the court at the conclusion of the investigation. The report is a public record.

~~(g)~~ **(h)** If the special prosecutor is not regularly employed as a full-time prosecuting attorney or full-time deputy prosecuting attorney, the compensation for the special prosecutor's services:

(1) shall be paid to the special prosecutor from the unappropriated funds of the appointing county; and
(2) may not exceed:

- (A) a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit; and
- (B) travel expenses and reasonable accommodation expenses actually incurred.

~~(h)~~ (i) If the special prosecutor is regularly employed as a full-time prosecuting attorney or deputy prosecuting attorney, the compensation for the special prosecutor's services:

- (1) shall be paid out of the appointing county's unappropriated funds to the treasurer of the county in which the special prosecutor regularly serves; and
- (2) must include a per diem equal to the regular salary of a full-time prosecuting attorney of the appointing circuit, travel expenses, and reasonable accommodation expenses actually incurred.

~~(i)~~ (j) The combination of:

- (1) the compensation paid to a senior prosecuting attorney under this chapter; and
- (2) retirement benefits that the person appointed as a senior prosecuting attorney is receiving or entitled to receive;

may not exceed the minimum compensation to which a full-time prosecuting attorney is entitled under IC 33-39-6-5.

~~(j)~~ (k) A senior prosecuting attorney appointed under this chapter may not be compensated as senior prosecuting attorney for more than one hundred (100) calendar days in total during a calendar year.

SECTION 49. IC 35-45-5-1, AS AMENDED BY P.L.70-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) ~~As used in~~ **The definitions in this section apply throughout this chapter.**

(b) **"Electronic gaming device" means any electromechanical device, electrical device, or machine that satisfies the following requirements:**

- (1) **The device is available to play or operate upon payment of consideration.**
- (2) **The device:**
 - (A) **by reason of the skill of the operator;**
 - (B) **by application of the element of chance; or**
 - (C) **due to both (A) and (B);**

may deliver or entitle the person playing or operating the device to receive premiums, merchandise, tokens, redeemable game credits, or anything of value other than unredeemable free games regardless of whether the payoff is made automatically from the device or in any other manner.

(c) "Gain" means the direct realization of winnings.

(d) "Gambling" means risking money or other property for gain, contingent in whole or in part upon lot, chance, or the operation of a gambling device; but it does not include participating in:

- (1) bona fide contests of skill, speed, strength, or endurance in which awards are made only to entrants or the owners of entries; or
- (2) bona fide business transactions that are valid under the law of contracts.

(e) "Gambling device" means:

- (1) a mechanism by the operation of which a right to money or other property may be credited, in return for consideration, as the result of the operation of an element of chance;

- (2) a mechanism that, when operated for a consideration, does not return the same value or property for the same consideration upon each operation;
- (3) a mechanism, furniture, fixture, construction, or installation designed primarily for use in connection with professional gambling;
- (4) a policy ticket or wheel; or
- (5) a subassembly or essential part designed or intended for use in connection with such a device, mechanism, furniture, fixture, construction, or installation.

In the application of this definition, an immediate and unrecorded right to replay mechanically conferred on players of pinball machines and similar amusement devices is presumed to be without value.

(f) "Gambling information" means:

- (1) a communication with respect to a wager made in the course of professional gambling; or
- (2) information intended to be used for professional gambling.

(g) "Interactive computer service" means an Internet service, an information service, a system, or an access software provider that provides or enables computer access to a computer served by multiple users. The term includes the following:

- (1) A service or system that provides access or is an intermediary to the Internet.
- (2) A system operated or services offered by a library, school, state educational institution (as defined in IC 20-12-0.5-1), or private college or university.

(h) "Operator" means a person who owns, maintains, or operates an Internet site that is used for interactive gambling.

(i) "Profit" means a realized or unrealized benefit (other than a gain) and includes benefits from proprietorship or management and unequal advantage in a series of transactions.

(j) **For purposes of this chapter:**

- (1) **a card game; or**
- (2) **an electronic version of a card game;**

is a game of chance and may not be considered a bona fide contest of skill.

SECTION 50. IC 35-45-5-3, AS AMENDED BY P.L.70-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) A person who knowingly or intentionally:

- (1) engages in pool-selling;
- (2) engages in bookmaking;
- (3) maintains, in a place accessible to the public:
 - (A) slot machines;
 - (B) one-ball machines or variants thereof;
 - (C) **an electronic gaming device;**
 - (D) pinball machines that award anything other than an immediate and unrecorded right of replay;
 - (E) roulette wheels;
 - (F) dice tables; or
 - (G) money or merchandise pushcards, punchboards, jars, or spindles;
- (4) conducts lotteries or policy or numbers games or sells chances therein;
- (5) conducts any banking or percentage games played with cards, dice, or counters, or accepts any fixed share of the

stakes therein; or

(6) accepts, or offers to accept, for profit, money, or other property risked in gambling;

commits professional gambling, a Class D felony. **However, the offense is a Class C felony if the person has a prior unrelated conviction under this subsection.**

(b) An operator who knowingly or intentionally uses the Internet to:

(1) engage in pool-selling:

(A) in Indiana; or

(B) in a transaction directly involving a person located in Indiana;

(2) engage in bookmaking:

(A) in Indiana; or

(B) in a transaction directly involving a person located in Indiana;

(3) maintain, on an Internet site accessible to residents of Indiana, the equivalent of:

(A) slot machines;

(B) one-ball machines or variants of one-ball machines;

(C) pinball machines that award anything other than an immediate and unrecorded right of replay;

(D) roulette wheels;

(E) dice tables; or

(F) money or merchandise pushcards, punchboards, jars, or spindles;

(4) conduct lotteries or policy or numbers games or sell chances in lotteries or policy or numbers games:

(A) in Indiana; or

(B) in a transaction directly involving a person located in Indiana;

(5) conduct any banking or percentage games played with the computer equivalent of cards, dice, or counters, or accept any fixed share of the stakes in those games:

(A) in Indiana; or

(B) in a transaction directly involving a person located in Indiana; or

(6) accept, or offer to accept, for profit, money or other property risked in gambling:

(A) in Indiana; or

(B) in a transaction directly involving a person located in Indiana;

commits professional gambling over the Internet, a Class D felony.

SECTION 51. IC 35-45-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) Except as provided in subsection (b), a person who:

(1) knowingly or intentionally owns, manufactures, possesses, buys, sells, rents, leases, repairs, or transports a gambling device, or offers or solicits an interest in a gambling device;

(2) before a race, game, contest, or event on which gambling may be conducted, knowingly or intentionally transmits or receives gambling information by any means, or knowingly or intentionally installs or maintains equipment for the transmission or receipt of gambling information; or

(3) having control over the use of a place, knowingly or intentionally permits another person to use the place for professional gambling;

commits promoting professional gambling, a Class D felony.

However, the offense is a Class C felony if the person has a prior unrelated conviction under this section.

(b) Subsection (a)(1) does not apply to a boat manufacturer who:

(1) transports or possesses a gambling device solely for the purpose of installing that device in a boat that is to be sold and transported to a buyer; and

(2) does not display the gambling device to the general public or make the device available for use in Indiana.

(c) When a public utility is notified by a law enforcement agency acting within its jurisdiction that any service, facility, or equipment furnished by it is being used or will be used to violate this section, it shall discontinue or refuse to furnish that service, facility, or equipment, and no damages, penalty, or forfeiture, civil or criminal, may be found against a public utility for an act done in compliance with such a notice. This subsection does not prejudice the right of a person affected by it to secure an appropriate determination, as otherwise provided by law, that the service, facility, or equipment should not be discontinued or refused, or should be restored."

Page 19, after line 1, begin a new paragraph and insert:

"SECTION 52. [EFFECTIVE UPON PASSAGE] (a) **The amendment of IC 35-45-5-1 by this act is not intended to result in any substantive change in the law.**

(b) **This act does not affect any:**

(1) **violations committed; or**

(2) **proceedings begun;**

before the effective date of this act. Those offenses and proceedings continue and shall be imposed and enforced under prior law as if this act had not been enacted.

SECTION 53. [EFFECTIVE JULY 1, 2007] **IC 35-45-5-3 and IC 35-45-5-4, both as amended by this act, apply only to crimes committed after June 30, 2007.**

SECTION 54. **An emergency is declared for this act."**

Re-number all SECTIONS consecutively.

(Reference is to HB 1510 as reprinted February 20, 2007.)

and when so amended that said bill do pass.

Committee Vote: Yeas 12, Nays 0.

LONG, Chair

Report adopted.

RESOLUTIONS ON FIRST READING

Senate Concurrent Resolution 84

Senate Concurrent Resolution 84, introduced by Senator Rogers:

A CONCURRENT RESOLUTION expressing support for the U.S. troops who have served, are currently serving, and those who have been killed or wounded during the conflict in Iraq and their families; and further expressing opposition to President Bush's proposed plan to increase the United States' military presence in Iraq by 21,500 troops.

Whereas, More than 137,000 U.S. military personnel, including many from Indiana, are bravely and honorably serving in Iraq and deserve the support of all Indiana and American citizens;

Whereas, The people of Indiana will always honor the sacrifices of the American soldiers who have died or been wounded in combat

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in Iraq, including the more than 3,000 U.S. military personnel who have been killed and the more than 22,500 who have been wounded;

Whereas, The President's plan to increase the number of American troops in Iraq will further impact the available federal resources required to provide for the urgent needs of the most vulnerable Indiana and American citizens, including the needs of health, education and homeland security; and

Whereas, Polls show that greater than 60% of Americans oppose sending additional American troops to Iraq, which indicates that the majority of Americans are gravely concerned regarding the increased U.S. troop levels in Iraq at this time: Therefore,

Be it resolved by the Senate of the General Assembly of the State of Indiana, the House of Representatives concurring:

SECTION 1. The Indiana General Assembly hereby expresses support for the U.S. troops who have served, are currently serving, and those who have been killed or wounded during the conflict in Iraq and their families.

SECTION 2. The Indiana General Assembly hereby expresses its opposition to President Bush's proposed plan to increase the United States military presence in Iraq by 21,500 troops.

SECTION 3. The Indiana General Assembly hereby acknowledges that the elected leaders and citizens have a responsibility to highlight the implications of sending additional troops to Iraq and the resultant impact on available federal resources, which are urgently needed by the most vulnerable portions of the American population.

SECTION 4. The Secretary of the Senate is directed to transmit a copy of this resolution to President George W. Bush, United States Senators Richard Lugar and Evan Byah, and United States Representatives Peter Visclosky, Joe Donnelly, Mark Souder, Steve Buyer, Dan Burton, Mike Pence, Julia Carson, Brad Ellsworth, and Baron Hill.

The resolution was read in full and referred to the Committee on Rules and Legislative Procedure.

REPORT OF THE PRESIDENT PRO TEMPORE

Madam President: I hereby report that Senator Lubbers has been excused from voting on EHB 1722 pursuant to the Report of the Committee on Ethics adopted on March 27, 2007.

LONG

Report adopted.

1:59 p.m.

The Chair declared a recess until the fall of the gavel.

Recess

The Senate reconvened at 3:16 p.m., with Senator Long in the Chair.

SENATE MOTION

Madam President: I move that Senator Drozda be added as cosponsor of Engrossed House Bill 1425.

HEINOLD

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Tallian be added as coauthor of Engrossed Senate Bill 9.

HEINOLD

Motion prevailed.

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bill 327 with amendments and the same is herewith returned to the Senate.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed, without amendments, Engrossed Senate Bills 114, 123, and 357 and the same are herewith returned to the Senate.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bills 9, 93, and 193 with amendments and the same are herewith returned to the Senate.

CLINTON MCKAY
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Senate Concurrent Resolutions 19, 35, 57, 61, and 81 and the same are herewith returned to the Senate.

CLINTON MCKAY
Principal Clerk of the House

ENGROSSED HOUSE BILLS ON SECOND READING

Engrossed House Bill 1348

Senator Lawson called up Engrossed House Bill 1348 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1373

Senator Steele called up Engrossed House Bill 1373 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1373-1)

Madam President: I move that Engrossed House Bill 1373 be amended to read as follows:

Replace the effective dates in SECTIONS 1 through 8 with "[EFFECTIVE UPON PASSAGE]".

Page 6, after line 25, begin a new paragraph and insert:
"SECTION 9. **An emergency is declared for this act.**".
(Reference is to EHB 1373 as printed March 30, 2007.)

STEELE

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1379

Senator Lawson called up Engrossed House Bill 1379 for second reading. The bill was read a second time by title.

SENATE MOTION
(Amendment 1379-1)

Madam President: I move that Engrossed House Bill 1379 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 5-14-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. (a) For the purposes of this section, "state agency" has the meaning set forth in IC 4-13-1-1.

(b) Except as provided in this section, a public agency may not charge any fee under this chapter:

- (1) to inspect a public record; or
- (2) to search for, examine, or review a record to determine whether the record may be disclosed.

(c) The Indiana department of administration shall establish a uniform copying fee for the copying of one (1) page of a standard-sized document by state agencies. The fee may not exceed the average cost of copying records by state agencies or ten cents (\$0.10) per page, whichever is greater. A state agency may not collect more than the uniform copying fee for providing a copy of a public record. However, a state agency shall establish and collect a reasonable fee for copying nonstandard-sized documents.

(d) This subsection applies to a public agency that is not a state agency. The fiscal body (as defined in IC 36-1-2-6) of the public agency, or the governing body, if there is no fiscal body, shall establish a fee schedule for the certification, copying, or facsimile machine transmission of documents. The fee **for certification of documents may not exceed five dollars (\$5) per document. The fee for copying or facsimile machine transmission of documents may not exceed the actual cost of certifying, copying, or facsimile transmission of the document by the agency and the fee must be uniform throughout the public agency and uniform to all purchasers. As used in this subsection, "actual cost" means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs: the greater of ten cents (\$0.10) per page or the actual cost to the agency of**

copying or transmitting the document by facsimile. A fee established under this subsection must be uniform throughout the public agency and uniform to all purchasers.

(e) If:

- (1) a person is entitled to a copy of a public record under this chapter; and
- (2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the public record;

the public agency must provide at least one (1) copy of the public record to the person. However, if a public agency does not have reasonable access to a machine capable of reproducing the record or if the person cannot reproduce the record by use of enhanced access under section 3.5 of this chapter, the person is only entitled to inspect and manually transcribe the record. A public agency may require that the payment for copying costs be made in advance.

(f) Notwithstanding subsection (b), (c), (d), (g), (h), or (i), a public agency shall collect any certification, copying, facsimile machine transmission, or search fee that is specified by statute or is ordered by a court.

(g) Except as provided by subsection (h), for providing a duplicate of a computer tape, computer disc, microfilm, or similar or analogous record system containing information owned by the public agency or entrusted to it, a public agency may charge a fee, uniform to all purchasers, that does not exceed the sum of the following:

- (1) The agency's direct cost of supplying the information in that form.
- (2) The standard cost for selling the same information to the public in the form of a publication if the agency has published the information and made the publication available for sale.
- (3) In the case of the legislative services agency, a reasonable percentage of the agency's direct cost of maintaining the system in which the information is stored. However, the amount charged by the legislative services agency under this subdivision may not exceed the sum of the amounts it may charge under subdivisions (1) and (2).

(h) This subsection applies to the fee charged by a public agency for providing enhanced access to a public record. A public agency may charge any reasonable fee agreed on in the contract under section 3.5 of this chapter for providing enhanced access to public records.

(i) This subsection applies to the fee charged by a public agency for permitting a governmental entity to inspect public records by means of an electronic device. A public agency may charge any reasonable fee for the inspection of public records under this subsection, or the public agency may waive any fee for the inspection.

(j) Except as provided in subsection (k), a public agency may charge a fee, uniform to all purchasers, for providing an electronic map that is based upon a reasonable percentage of the agency's direct cost of maintaining, upgrading, and enhancing the electronic map and for the direct cost of supplying the electronic map in the form requested by the purchaser. If the public agency is within a political subdivision having a fiscal body, the fee is subject to the approval of the fiscal body of the political subdivision.

(k) The fee charged by a public agency under subsection (j) to cover costs for maintaining, upgrading, and enhancing an electronic

map may be waived by the public agency if the electronic map for which the fee is charged will be used for a noncommercial purpose, including the following:

- (1) Public agency program support.
- (2) Nonprofit activities.
- (3) Journalism.
- (4) Academic research."

Page 3, between lines 8 and 9, begin a new paragraph and insert: "(e) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(f) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(g) The county recorder may not tax or collect any fee for:

- (1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or
- (2) performing any service under any of the following:
 - (A) IC 6-1.1-22-2(c).
 - (B) IC 8-23-7.
 - (C) IC 8-23-23.
 - (D) IC 10-17-2-3.
 - (E) IC 10-17-3-2.
 - (F) IC 12-14-13.
 - (G) IC 12-14-16.

(h) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes." Renummer all SECTIONS consecutively.

(Reference is to EHB 1379 as printed March 23, 2007.)

STEELE

Motion prevailed.

SENATE MOTION (Amendment 1379-2)

Madam President: I move that Engrossed House Bill 1379 be amended to read as follows:

Page 3, line 6, after "deposited" insert "**or transferred**".

Page 3, delete lines 9 through 42, begin a new paragraph and insert:

"(e) As used in this section, "record" or "recording" includes the functions of recording, filing, and filing for record.

(f) The county recorder shall post the fees set forth in subsection (b) in a prominent place within the county recorder's office where the fee schedule will be readily accessible to the public.

(g) The county recorder may not tax or collect any fee for:

- (1) recording an official bond of a public officer, a deputy, an appointee, or an employee; or
- (2) performing any service under any of the following:
 - (A) IC 6-1.1-22-2(c).
 - (B) IC 8-23-7.
 - (C) IC 8-23-23.
 - (D) IC 10-17-2-3.
 - (E) IC 10-17-3-2.
 - (F) IC 12-14-13.
 - (G) IC 12-14-16.

(h) The state and its agencies and instrumentalities are required to pay the recording fees and charges that this section prescribes.

SECTION 2. IC 36-2-7-10.1, AS AMENDED BY P.L.171-2006,

SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10.1. (a) As used in this section, "bulk form" means:

- (1) a copy of all recorded documents received by the county recorder for recording in a calendar day, week, month, or year;
- (2) the indices for finding, retrieving, and viewing all recorded documents received by the county recorder for recording in a calendar day, week, month, or year; or
- (3) both subdivisions (1) and (2).

(b) As used in this section, "bulk user" means an individual, a corporation, a partnership, a limited liability company, or an unincorporated association that purchases bulk form copies. However, "bulk user" does not include an individual, a corporation, a partnership, a limited liability company, or an unincorporated association whose primary purpose is to resell public records.

(c) As used in this section, "copy" means:

- (1) duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage; or
- (2) reproducing on microfilm.

(d) As used in this section, "indices" means all of the indexing information used by the county recorder for finding, retrieving, and viewing a recorded document.

(e) As used in this section, "recorded document" means a writing, a paper, a document, a plat, a map, a survey, or anything else received at any time for recording or filing in the public records maintained by the county recorder.

(f) The county recorder shall collect the fees prescribed by this section for the sale of recorded documents in bulk form copies to bulk users of public records. The county recorder shall pay the fees into the county treasury at the end of each calendar month. The fees prescribed and collected under this section supersede all other fees for bulk form copies required by law to be charged for services rendered by the county recorder to bulk users.

(g) Except as provided by subsection (h), the county recorder shall charge bulk users the following for bulk form copies:

- (1) **Five Six cents (\$0.05) (\$0.06)** per page for a recorded document, including the index of the instrument number or book and page, or both, for retrieving the recorded document.
- (2) **Five Six cents (\$0.05) (\$0.06)** per recorded document for a copy of the other indices used by the county recorder for finding, retrieving, and viewing a recorded document.

(h) As used in this subsection, "actual cost" does not include labor costs or overhead costs. The county recorder may charge a fee that exceeds the amount established by subsection (g) if the actual cost of providing the bulk form copies exceeds the amount established by subsection (g). However, the total amount charged for the bulk form copies may not exceed the actual cost plus one cent (\$0.01) of providing the bulk form copies.

(i) The county recorder shall provide bulk users with bulk form copies in the format or medium in which the county recorder maintains the recorded documents and indices. If the county recorder maintains the recorded documents and indices in more than one (1) format or medium, the bulk user may select the format or medium in which the bulk user shall receive the bulk form copies. If the county recorder maintains the recorded documents and indices for finding, retrieving, and viewing the recorded documents in an

electronic or a digitized format, a reasonable effort shall be made to provide the bulk user with bulk form copies in a standard, generally acceptable, readable format. Upon request of the bulk user, the county recorder shall provide the bulk form copies to the bulk user within a reasonable time after the recorder's archival process is completed and bulk form copies become available in the office of the county recorder.

(j) Bulk form copies under this section may be used:

- (1) in the ordinary course of the business of the bulk user; and
- (2) by customers of the bulk user.

(k) The bulk user may charge its customers a fee for using the bulk form copies obtained by the bulk user. However, bulk form copies obtained by a bulk user under this section may not be resold in:

- (1) bulk form or separated into one (1) or more copies of recorded documents or indices, or both, and resold as separate copies; and
- (2) a single transaction or on a continuing or subscription basis.

~~(k)~~ (l) All revenue generated by the county recorder under this section shall be deposited in the recorder's record perpetuation fund and used by the recorder in accordance with section ~~10(c)~~ 10 (d) of this chapter.

~~(l)~~ (m) This section does not apply to enhanced access under IC 5-14-3-3."

Delete pages 4 through 5.

(Reference is to EHB 1379 as printed March 23, 2007.)

LAWSON

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1425

Senator Heinold called up Engrossed House Bill 1425 for second reading. The bill was read a second time by title.

SENATE MOTION (Amendment 1425-1)

Madam President: I move that Engrossed House Bill 1425 be amended to read as follows:

Page 2, delete lines 7 through 42, begin a new paragraph and insert:

"SECTION 3. IC 9-21-21-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.3. Notwithstanding section 3 of this chapter and IC 9-18-2-4, a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter may be operated intrastate for the transportation of tomatoes or silage to the first point of processing for not more than one (1) seventy-one (71) day period in a registration year established by IC 9-18-2-7. Before a vehicle may be operated as provided in this section, the owner shall pay to the bureau:**

- (1) the license fee due under IC 9-29-5-13(b); and
- (2) seventeen percent (17%) of the license fee paid under IC 9-29-5-13(b);

for the farm truck, farm trailer, or farm semitrailer and tractor. The bureau shall adopt rules under IC 4-22-2 to authorize the operation of a farm truck, farm trailer, or farm

semitrailer and tractor in the manner provided in this section."

Page 3, delete lines 1 through 12.

Page 3, line 16, delete "4" and insert "4.3".

Page 10, line 28, delete "P.L.210-2005," and insert "HEA 1357-2007, SECTION 3,".

Page 10, line 29, delete "SECTION 64,".

Page 10, line 33, reset in bold "Except as provided in subsection".

Page 10, line 33, delete "subsections".

Page 10, line 33, delete "(d) and (e)," and insert "(d),".

Page 11, delete lines 10 through 21.

Page 11, line 22, delete "(e)" and insert "(d)".

Page 11, line 22, delete "subsections" and insert "subsection".

Page 11, line 22, delete "and (d)".

Page 11, line 27, delete "IC 9-21-21-4(b)." and insert ""IC 9-21-21-4.3.".

Renummer all SECTIONS consecutively.

(Reference is to EHB 1425 as printed March 23, 2007.)

HEINOLD

Motion prevailed.

SENATE MOTION (Amendment 1425-2)

Madam President: I move that Engrossed House Bill 1425 be amended to read as follows:

Page 2, delete lines 7 through 39, begin a new paragraph and insert:

"SECTION 3. IC 9-21-21-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 4.3. (a) Notwithstanding section 3 of this chapter, subsection (b), and IC 9-18-2-4, a farm truck, farm trailer, or farm semitrailer and tractor described in section 1 of this chapter may be operated intrastate for the transportation of seasonal, perishable fruit or vegetables to the first point of processing for not more than one (1) thirty day period in a registration year established by IC 9-18-2-7. Before a vehicle may be operated as provided in this subsection, the owner shall pay to the bureau:**

- (1) the license fee due under IC 9-29-5-13(b); and
- (2) eight and one-half percent (8.5%) of the license fee paid under IC 9-29-5-13(b);

for the farm truck, farm trailer, or farm semitrailer and tractor."

Page 3, line 10, before "The" begin a new paragraph and insert: "(c)".

Page 3, line 12, delete "subsection." and insert "section.".

Page 3, line 16, delete "4" and insert "4.3".

Page 10, line 28, delete "P.L.210-2005," and insert "HEA 1357-2007, SECTION 3,".

Page 10, line 29, delete "SECTION 64,".

Page 10, line 33, reset in bold "Except as provided in subsection".

Page 10, line 33, delete "subsections".

Page 10, line 33, reset in bold "(d)".

Page 11, delete lines 10 through 21, begin a new paragraph and insert:

"(d) Notwithstanding subsections (b) and (e) and IC 9-18-2-4, a truck, trailer, or semitrailer and tractor described in subsection (a) may be operated intrastate for the transportation of seasonal, perishable, fruit or vegetables to the first point of processing for a period that consists of not more than a thirty (30) day period in a registration year as provided by IC 9-21-21-4.3(a). Before a vehicle may be operated as provided in this subsection, the owner shall pay to the bureau:

- (1) any license fee due under section 13(b) of this chapter; and
- (2) eight and one-half percent (8.5%) of the license fee paid under section 13(b) of this chapter."

Page 11, line 27, delete "IC 9-21-21-4(b)." and insert "IC 9-21-21-4.3(b).".

Renumber all SECTIONS consecutively.

(Reference is to EHB 1425 as printed March 23, 2007.)

HEINOLD

Motion prevailed. The bill was ordered engrossed.

Engrossed House Bill 1477

Senator Simpson called up Engrossed House Bill 1477 for second reading. The bill was read a second time by title.

SENATE MOTION (Amendment 1477-1)

Madam President: I move that Engrossed House Bill 1477 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-7-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) The following taxes are imposed, and shall be collected and paid as provided in this chapter, upon the sale, exchange, bartering, furnishing, giving away, or otherwise disposing of cigarettes within the state of Indiana:

- (1) On cigarettes weighing not more than three (3) pounds per thousand (1,000), a tax at the rate of ~~two four and seven nine~~ hundred seventy-five thousandths of a cent ~~(\$0.02775)~~ **(\$0.04975)** per individual cigarette.
- (2) On cigarettes weighing more than three (3) pounds per thousand (1,000), a tax at the rate of ~~three six and six thousand eight hundred eighty-one ten-thousandths~~ **twelve thousandths** of a cent ~~(\$0.036881)~~ **(\$0.06612)** per individual cigarette, except that if any cigarettes weighing more than three (3) pounds per thousand (1,000) shall be more than six and one-half (6 ½) inches in length, they shall be taxable at the rate provided in subdivision (1), counting each two and three-fourths (2 ¾) inches (or fraction thereof) as a separate cigarette.

(b) Upon all cigarette papers, wrappers, or tubes, made or prepared for the purpose of making cigarettes, which are sold, exchanged, bartered, given away, or otherwise disposed of within the state of Indiana (other than to a manufacturer of cigarettes for

use by ~~him~~ **the manufacturer** in the manufacture of cigarettes), the following taxes are imposed, and shall be collected and paid as provided in this chapter:

- (1) On fifty (50) papers or less, a tax of one-half cent (\$0.005).
- (2) On more than fifty (50) papers but not more than one hundred (100) papers, a tax of one cent (\$0.01).
- (3) On more than one hundred (100) papers, one-half cent (\$0.005) for each fifty (50) papers or fractional part thereof.
- (4) On tubes, one cent (\$0.01) for each fifty (50) tubes or fractional part thereof.

SECTION 2. IC 6-7-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) Distributors who hold certificates and retailers shall be agents of the state in the collection of the taxes imposed by this chapter and the amount of the tax levied, assessed, and imposed by this chapter on cigarettes sold, exchanged, bartered, furnished, given away, or otherwise disposed of by distributors or to retailers. Distributors who hold certificates shall be agents of the department to affix the required stamps and shall be entitled to purchase the stamps from the department at a discount of ~~one and two-tenths seventy-five~~ **hundredths** percent ~~(1.2%)~~ **(0.75%)** of the amount of the tax stamps purchased, as compensation for their labor and expense.

(b) The department may permit distributors who hold certificates and who are admitted to do business in Indiana to pay for revenue stamps within thirty (30) days after the date of purchase. However, the privilege is extended upon the express condition that:

- (1) except as provided in subsection (c), a bond or letter of credit satisfactory to the department, in an amount not less than the sales price of the stamps, is filed with the department; and
- (2) proof of payment is made of all local property, state income, and excise taxes for which any such distributor may be liable. The bond or letter of credit, conditioned to secure payment for the stamps, shall be executed by the distributor as principal and by a corporation duly authorized to engage in business as a surety company or financial institution in Indiana.

(c) If a distributor has at least five (5) consecutive years of good credit standing with the state, the distributor shall not be required to post a bond or letter of credit under subsection (b).

SECTION 3. IC 6-7-1-28.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 28.1. The taxes, registration fees, fines, or penalties collected under this chapter shall be deposited in the following manner:

- (1) ~~Six Four and six-tenths twenty-one hundredths~~ percent ~~(6.6%)~~ **(4.21%)** of the money shall be deposited in a fund to be known as the cigarette tax fund.
- (2) ~~Ninety-four Sixty~~ hundredths percent ~~(0.94%)~~ **(0.60%)** of the money shall be deposited in a fund to be known as the mental health centers fund.
- (3) ~~Eighty-three Fifty-three and ninety-seven fifty~~ hundredths percent ~~(83.97%)~~ **(53.50%)** of the money shall be deposited in the state general fund.
- (4) ~~Eight Five and forty-nine forty-one~~ hundredths percent ~~(8.49%)~~ **(5.41%)** of the money shall be deposited into the pension relief fund established in IC 5-10.3-11.

(5) Thirty-six and twenty-eight hundredths percent (36.28%) of the money shall be deposited into the healthier Indiana insurance trust fund established by IC 12-15-44-14.

The money in the cigarette tax fund, the mental health centers fund, **the healthier Indiana insurance trust fund**, or the pension relief fund at the end of a fiscal year does not revert to the state general fund. However, if in any fiscal year, the amount allocated to a fund under subdivision (1) or (2) is less than the amount received in fiscal year 1977, then that fund shall be credited with the difference between the amount allocated and the amount received in fiscal year 1977, and the allocation for the fiscal year to the fund under subdivision (3) shall be reduced by the amount of that difference."

Page 2, after line 3, begin a new paragraph and insert:

"SECTION 32. [EFFECTIVE JULY 1, 2007] Notwithstanding IC 6-7-1-14, revenue stamps paid for before July 1, 2007, and in the possession of a distributor may be used after June 30, 2007, only if the full amount of the tax imposed by IC 6-7-1-12, as effective after June 30, 2007, and as amended by this act, is remitted to the department of state revenue under the procedures prescribed by the department."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1477 as printed March 30, 2007.)

SIMPSON

The Chair, citing Senate Rule 50, stated the subject matter of the proposed amendment was not germane to the bill and ruled the motion out of order.

The decision of the Chair was appealed by Senator Simpson. Senator Long requested that Senator Landske take the Chair.

The question pending was, Shall the ruling of the Chair be sustained?

Roll Call 334: yeas 31, nays 17. The ruling of the Chair was sustained.

There being no further amendments, the bill was ordered engrossed.

Engrossed House Bill 1722

Senator Hershman called up Engrossed House Bill 1722 for second reading. The bill was read a second time by title.

SENATE MOTION (Amendment 1722-2)

Madam President: I move that Engrossed House Bill 1722 be amended to read as follows:

Page 3, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 4. IC 6-3.1-29-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20.5. (a) Subject to subsection (c), part or all of the credit to which a taxpayer is entitled under section 15 of this chapter may be assigned by the taxpayer to one (1) or more utilities that have entered into a contract that:

- (1) is approved by the Indiana utility regulatory commission;**
- (2) provides for the purchase electricity or substitute natural gas (as defined in IC 8-1-2-42.1) by the utility**

from the taxpayer; and

(3) expressly allows the assignment of tax credits under this section.

A tax credit assigned to a utility under this section must be applied against the utility's state tax liability in the order set forth in section 14(b) of this chapter.

(b) Notwithstanding section 16 of this chapter, any part of a taxpayer's credit under section 15 of this chapter that is assigned by the taxpayer under this section must be taken in twenty (20) annual installments, beginning with the year in which the taxpayer places into service an integrated coal gasification powerplant or a fluidized bed combustion technology.

(c) The part of a taxpayer's credit under section 15 of this chapter that may be assigned by the taxpayer with respect to any one (1) taxable year is subject to the following:

(1) The total amount of the taxpayer's credit under section 15 of this chapter that may be assigned by the taxpayer with respect to the taxable year may not exceed the product of:

(A) the total credit amount to which the taxpayer is entitled under section 15 of this chapter, divided by twenty (20); multiplied by

(B) the percentage of Indiana coal used in the taxpayer's integrated coal gasification powerplant or fluidized bed combustion technology in the taxable year for which the annual installment of the credit is allowed.

(2) The part of the amount determined under subdivision (1) that may be assigned to any one (1) utility with respect to the taxable year may not exceed the greater of:

(A) the utility's total state tax liability for the taxable year, multiplied by twenty-five percent (25%); or

(B) the utility's total utility receipts tax liability for the taxable year.

(d) Any part of the taxpayer's credit under section 15 of this chapter that is assigned to one (1) or more utilities by a taxpayer under this section with respect to a taxable year may not be claimed by the taxpayer or the taxpayer's shareholders, partners, or members. However, any part of the credit to which the taxpayer is entitled under section 15 of this chapter and that is not assigned by the taxpayer with respect to the taxable year may be taken and applied by the taxpayer, or the taxpayer's shareholders, partners, or members, in accordance with sections 16 and 20 of this chapter."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1722 as printed March 16, 2007.)

HERSHMAN

Motion prevailed.

SENATE MOTION (Amendment 1722-4)

Madam President: I move that Engrossed House Bill 1722 be amended to read as follows:

"Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 6-3.1-27-9.5, AS AMENDED BY P.L.122-2006, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 9.5. **Except as provided in IC 6-3.1-28-11(c)**, the total amount of credits allowed under:

- (1) section 8 of this chapter;
- (2) section 9 of this chapter; and
- (3) IC 6-3.1-28;

may not exceed fifty million dollars (\$50,000,000) for all taxpayers and all taxable years beginning after December 31, 2004. The corporation shall determine the maximum allowable amount for each type of credit, which must be at least four million dollars (\$4,000,000) for each type of credit.

SECTION 2. IC 6-3.1-28-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. (a) If the amount of the credit determined under this chapter for a taxpayer in a taxable year exceeds the taxpayer's state tax liability for that taxable year, the taxpayer may carry over the excess to the following taxable years. The amount of the credit carryover from a taxable year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under this chapter for any subsequent taxable year.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit. **A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this chapter.**

SECTION 3. IC 6-3.1-28-11, AS AMENDED BY P.L.122-2006, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]: Sec. 11. (a) **As used in this section, "cellulosic ethanol" means ethanol derived solely from lignocellulosic or hemicellulosic matter.**

(b) The corporation shall determine the maximum amount of credits that a taxpayer (or if the person producing the ethanol is a pass through entity, the shareholders, partners, or members of the pass through entity) is eligible to receive under this section. The total amount of credits allowed a taxpayer (or, if the person producing the ethanol is a pass through entity, the shareholders, partners, or members of the pass through entity) under this chapter may not exceed a total of the following amounts for all taxable years:

- (1) Two million dollars (\$2,000,000) in the case of a taxpayer who produces at least forty million (40,000,000) but less than sixty million (60,000,000) gallons of **grain** ethanol in a taxable year.
- (2) Three million dollars (\$3,000,000) in the case of a taxpayer who produces at least sixty million (60,000,000) gallons of **grain** ethanol in a taxable year.
- (3) **Twenty million dollars (\$20,000,000) for all taxpayers for all taxable years, in the case of tax credits for a taxpayer who produces at least twenty million (20,000,000) gallons of cellulosic ethanol in a taxable year.**

(c) **The total amount of tax credits allowed under this chapter for a taxpayer who produces at least twenty million (20,000,000) gallons of cellulosic ethanol is not subject to the maximum amount of tax credits imposed by IC 6-3.1-27-9.5."**

Page 1, line 17, delete "Subject" and insert **"If the corporation decides to award a tax credit under this chapter to a taxpayer, and subject"**.

Page 2, line 20, delete "The" and insert **"If the corporation decides to award a tax credit under this chapter to an applicant, the"**.

Page 3, between lines 33 and 34, begin a new paragraph and insert:

"SECTION 7. IC 6-3.1-34 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2008]:

Chapter 34. Indiana Fueled Energy Investment Tax Credit

Sec. 1. As used in this chapter, "biomass" means any organic matter that is available on a renewable basis, including agricultural crops and agricultural wastes and residues, wood and wood wastes, including wood residues, forest thinnings, mill residue wood, clean construction and demolition waste (but excluding treated or painted lumber), animal wastes, municipal wastes, food wastes, and aquatic plants.

Sec. 2. As used in this chapter, "corporation" means the Indiana economic development corporation established by IC 5-28-3-1.

Sec. 3. As used in this chapter, "Indiana coal" has the meaning set forth in IC 4-4-30-4.

Sec. 4. As used in this chapter, "Indiana fuel" means either of the following:

- (1) Any of the following when the fuel is gasified, liquefied, or methanized:
 - (A) Biomass produced in Indiana.
 - (B) Indiana coal.
 - (C) Petroleum coke produced in Indiana.
 - (D) Oil shale located in Indiana.

(2) Coal mine methane when used in the production of power.

Sec. 5. As used in this chapter, "office" means the office of energy and defense development.

Sec. 6. As used in this chapter, "qualified investment" means a taxpayer's expenditures for:

- (1) all real and tangible personal property incorporated in and used as part of a facility used to produce energy from Indiana fuel; and
- (2) transmission equipment and other real and personal property located at the site of the energy production facility that is employed specifically to serve the energy production facility.

Sec. 7. As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2);
- (2) a partnership;
- (3) a limited liability company;
- (4) a limited liability partnership;
- (5) a corporation organized under IC 8-1-13; or
- (6) a corporation organized under IC 23-17-1 that:
 - (A) is an electric cooperative; and
 - (B) has at least one (1) member that is a corporation organized under IC 8-1-13.

Sec. 8. As used in this chapter, "petroleum coke" means a carbonaceous solid derived from the process of refining oil.

Sec. 9. As used in this chapter, "state tax liability" means the taxpayer's total tax liability that is incurred under:

- (1) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (2) IC 27-1-18-2 (the insurance premiums tax);
- (3) IC 6-5.5 (the financial institutions tax); and
- (4) IC 6-2.3 (the utility receipts tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

Sec. 10. As used in this chapter, "taxpayer" means any person, corporation, limited liability company, partnership, or other entity that:

- (1) has any state tax liability; and
- (2) makes a qualified investment.

Sec. 11. (a) A taxpayer that:

- (1) is awarded a tax credit under this chapter by the corporation; and
- (2) complies with the conditions set forth in this chapter and the agreement entered into by the corporation and the taxpayer under this chapter;

is entitled to a credit against the taxpayer's state tax liability for a taxable year in which the taxpayer places into service an energy production facility using Indiana fuel and for the taxable years provided in section 13 of this chapter.

(b) A tax credit awarded under this chapter must be applied against the taxpayer's state tax liability in the following order:

- (1) Against the taxpayer's liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax).
- (2) Against the taxpayer's liability incurred under IC 6-5.5 (the financial institutions tax).
- (3) Against the taxpayer's liability incurred under IC 27-1-18-2 (the insurance premiums tax).
- (4) Against the taxpayer's liability incurred under IC 6-2.3 (the utility receipts tax).

Sec. 12. (a) If the corporation decides to award a tax credit under this chapter to a taxpayer, the amount of the credit to which the taxpayer is entitled for a qualified investment is equal to the product of:

- (1) the amount of the taxpayer's qualified investment; multiplied by
- (2) ten percent (10%).

(b) The total amount of tax credits awarded under this chapter may not exceed fifty million dollars (\$50,000,000) for all taxpayers and all taxable years.

Sec. 13. (a) A credit awarded under section 11 of this chapter must be taken in ten (10) annual installments, beginning with the year in which the taxpayer places into service the taxpayer's energy production facility.

(b) The amount of an annual installment of the credit awarded under section 11 of this chapter is equal to the quotient of:

- (1) the credit amount determined under section 12 of this chapter; divided by
- (2) ten (10).

(c) If the credit allowed by this chapter is available to a member of an affiliated group of corporations filing a consolidated return under IC 6-2.3-6-5 or IC 6-3-4-14, the credit shall be applied against the state tax liability of the affiliated group.

Sec. 14. (a) If a pass through entity is entitled to a credit under this chapter but does not have state tax liability against which the credit may be applied, an individual who is a shareholder, partner, or member of the pass through entity is entitled to a credit equal to:

- (1) the credit determined for the pass through entity for the taxable year; multiplied by
- (2) in the case of a pass through entity described in:

(A) section 7(1), 7(2), 7(3), or 7(4) of this chapter, the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled; or

(B) section 7(5) or 7(6) of this chapter, the relative percentage of the corporation's patronage dividends allocable to the member for the taxable year.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder, partner, or member of a pass through entity is otherwise entitled under this chapter. However, a pass through entity and an individual who is a shareholder, partner, or member of the pass through entity may not claim more than one (1) credit for the same qualified investment.

Sec. 15. The amount of a credit claimed under this chapter may not exceed a qualified taxpayer's state tax liability. A taxpayer is not entitled to a carryback, carryover, or refund of an unused credit.

Sec. 16. A taxpayer may not sell, assign, convey, or otherwise transfer the tax credit provided by this chapter.

Sec. 17. (a) A taxpayer that proposes to place a new energy production facility utilizing Indiana fuel into service may apply to the corporation before the taxpayer makes the qualified investment to enter into an agreement for a tax credit under this chapter. The corporation shall prescribe the form of the application.

(b) The office shall provide any technical assistance requested by the corporation in the administration of this chapter.

Sec. 18. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that the taxpayer's proposed investment satisfies the requirements of this chapter.

Sec. 19. (a) If the corporation decides to award a tax credit under this chapter to an applicant, the corporation shall enter into an agreement with the applicant. The agreement must include all the following:

- (1) A detailed description of the project that is the subject of the agreement.
- (2) The first taxable year for which the credit may be claimed.
- (3) The amount of the tax credit that, subject to section 15 of this chapter, will be allowed for each taxable year.
- (4) A requirement that the taxpayer shall maintain operations at the project location for at least ten (10) years during the term that the tax credit is available.
- (5) A requirement that the taxpayer shall pay an average wage to its employees at the energy production facility, other than highly compensated employees, in each taxable year that a tax credit is available, that equals at least one

hundred twenty-five percent (125%) of the average county wage in the county in which the energy production facility is located.

(6) A requirement that the taxpayer will maintain at the location where the qualified investment is made, during the term of the tax credit, a total payroll that is at least equal to the payroll that existed on the date that the taxpayer placed the energy production facility into service.

(7) A requirement that one hundred percent (100%) of the fuel used at the energy production facility must be Indiana fuel.

(8) A requirement that the energy production facility will comply with any energy efficiency or emission standard recommended by the office and imposed by the corporation.

(b) A taxpayer must comply with the terms of the agreement described in subsection (a) to receive an annual installment of the tax credit awarded under this chapter. The corporation shall annually determine whether the taxpayer is in compliance with the agreement. If the corporation determines that the taxpayer is in compliance, the corporation shall issue a certificate of compliance to the taxpayer.

Sec. 20. To receive the credit awarded by this chapter, a taxpayer must claim the credit on the taxpayer's annual state tax return or returns in the manner prescribed by the department. The taxpayer shall submit to the department a copy of the taxpayer's certificate of compliance issued under section 19 of this chapter, and all information that the department determines is necessary for the calculation of the credit provided by this chapter."

Page 8, between lines 24 and 25, begin a new paragraph and insert:

"SECTION 16. IC 8-1-8.8-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. (a) As used in this chapter, "renewable energy resources" means alternative sources of renewable energy, including the following:

- (1) Energy from wind.
- (2) Solar energy.
- (3) Photovoltaic cells and panels.
- (4) Dedicated crops grown for energy production.
- (5) ~~Organic waste~~ Biomass **(as defined by IC 6-3.1-34-1).**
- (6) Hydropower from existing dams.
- (7) Fuel cells.
- (8) Energy from waste to energy facilities producing steam not used for the production of electricity.

(b) Except for energy described in subsection (a)(8), the term does not include energy from the incinerations, burning, or heating of any of the following:

- ~~(1) Waste wood.~~
- ~~(2) (1) Tires.~~
- ~~(3) (2)~~ (2) General household, institutional, commercial, industrial lunchroom, office, or landscape waste.
- ~~(4) Construction or demolition debris."~~

Page 15, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 21. [EFFECTIVE JANUARY 1, 2008] **(a) IC 6-3.1-28-11, as amended by this act, applies to taxable years**

beginning after December 31, 2007.

(b) IC 6-3.1-34, as added by this act, applies to taxable years beginning after December 31, 2007."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1722 as printed March 16, 2007.)

HERSHMAN

Motion prevailed.

SENATE MOTION
(Amendment 1722-3)

Madam President: I move that Engrossed House Bill 1722 be amended to read as follows:

Page 14, after line 34, begin a new paragraph and insert:
"SECTION 15. IC 8-14-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) The auditor of state shall establish a special account to be called the "local road and street account" and **shall** credit this account monthly with forty-five percent (45%) of the money deposited in the highway, road and street fund.

(b) The auditor **of state** shall distribute to units of local government money from this account each month.

(c) The auditor of state shall allocate to each county the money in this account ~~based on the basis of~~ the ratio of each county's passenger car **and pickup truck** registrations to the total passenger car **and pickup truck** registrations of the state. **For purposes of this allocation, a pickup truck is a truck that is registered under IC 9-18-2-8 as a truck with a declared gross weight of not more than eleven thousand (11,000) pounds.** The auditor **of state** shall further determine the suballocation between the county and the cities within the county as follows:

(1) In counties having a population of more than fifty thousand (50,000), sixty percent (60%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and forty percent (40%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(2) In counties having a population of fifty thousand (50,000) or less, twenty percent (20%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and eighty percent (80%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(3) ~~For the purposes of allocating funds as provided in this section, towns which become incorporated as a town~~ **A town that incorporates** between the effective dates of decennial censuses ~~shall be becomes~~ eligible for allocations **under this section** upon the effectiveness of a corrected population count for the town under IC 1-1-3.5.

(4) Money allocated under the provisions of this section to counties containing a consolidated city shall be credited or allocated to the department of transportation of the consolidated city.

(d) Each month the auditor of state shall inform the department of the amounts allocated to each unit of local government from the local road and street account.

SECTION 16. [EFFECTIVE JULY 1, 2007] IC 8-14-2-4, as amended by this act, applies to monthly distributions from the local

road and street account occurring after June 30, 2007".
 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1722 as printed March 14, 2007.)

HUME

Upon request of Senator Hume the President ordered the roll of the Senate to be called. Roll Call 335: yeas 9, nays 38.

Motion failed. The bill was ordered engrossed.

Engrossed House Bill 1767

Senator Kenley called up Engrossed House Bill 1767 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

Engrossed House Bill 1019

Senator Nugent called up Engrossed House Bill 1019 for second reading. The bill was read a second time by title.

SENATE MOTION (Amendment 1019-1)

Madam President: I move that Engrossed House Bill 1019 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-42-2-1, AS AMENDED BY P.L.2-2005, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

(1) a Class A misdemeanor if:

- (A) it results in bodily injury to any other person;
- (B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of his official duty;
- (C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;
- (D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; or
- (E) it is committed against a community policing volunteer:
 - (i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or
 - (ii) because the person is a community policing volunteer;

(2) a Class D felony if it results in bodily injury to:

- (A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of his official duty;
- (B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
- (C) a person of any age who is mentally or physically disabled and is committed by a person having the care of

the mentally or physically disabled person, whether the care is assumed voluntarily or because of a legal obligation;

(D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;

(E) an endangered adult (as defined in IC 12-10-3-2);

(F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;

(G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;

(H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;

(I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;

(J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;

(K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; ~~or~~

(L) a community policing volunteer:

(i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or

(ii) because the person is a community policing volunteer; ~~or~~

(M) a family or household member (as defined in IC 35-41-1-10.6) if the person who committed the offense:

(i) is at least eighteen (18) years of age; and

(ii) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense;

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;

(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2); ~~and~~

(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2); ~~and~~

(8) a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

- (A) probation officer;
- (B) parole officer;
- (C) community corrections worker; or
- (D) home detention officer."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1019 as printed March 30, 2007.)

LUBBERS

Motion prevailed. The bill was ordered engrossed.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1067, which is eligible for third reading, be returned to second reading for purposes of amendment.

MEEKS

Motion prevailed.

Senator Landske yielded the gavel to the President of the Senate.

ENGROSSED HOUSE BILLS ON THIRD READING

Engrossed House Bill 1060

Senator Meeks called up Engrossed House Bill 1060 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 336: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1065

Senator Kenley called up Engrossed House Bill 1065 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 337: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1092

Senator Delph called up Engrossed House Bill 1092 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning military service.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 338: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1264

Senator Dillon called up Engrossed House Bill 1264 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 339: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1278

Senator Ford called up Engrossed House Bill 1278 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 340: yeas 42, nays 6. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1324

Senator Hershman called up Engrossed House Bill 1324 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 341: yeas 45, nays 3. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1378

Senator Becker called up Engrossed House Bill 1378 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 342: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1388

Senator Drozda called up Engrossed House Bill 1388 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 343: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1437

Senator Bray called up Engrossed House Bill 1437 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 344: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1468

Senator Becker called up Engrossed House Bill 1468 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 345: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1480

Senator Meeks called up Engrossed House Bill 1480 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 346: yeas 47, nays 1. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act?

There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1489

Senator Lubbers called up Engrossed House Bill 1489 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning education.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 347: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1659

Senator Jackman called up Engrossed House Bill 1659 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning transportation.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 348: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1717

Senator Bray called up Engrossed House Bill 1717 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions and commercial law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 349: yeas 46, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Engrossed House Bill 1738

Senator Gard called up Engrossed House Bill 1738 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning natural and cultural resources.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 350: yeas 48, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

April 3, 2007

Senate 753

Engrossed House Bill 1753

Senator Lubbers called up Engrossed House Bill 1753 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 351: yeas 44, nays 4. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on April 2, 2007, signed Senate Enrolled Acts 333 and 553 and House Enrolled Acts 1034, 1051, 1358, 1434, 1555, 1762, and 1818.

DAVID C. LONG
President Pro Tempore

**MESSAGE FROM THE PRESIDENT PRO TEMPORE
OF THE INDIANA STATE SENATE**

Madam President and Members of the Senate: I have on April 3, 2007, signed Senate Enrolled Acts 30, 88, and 229.

DAVID C. LONG
President Pro Tempore

SENATE MOTION

Madam President: I move that Senator M. Young be added as cosponsor of Engrossed House Bill 1092.

DELPH

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator R. Young be added as cosponsor of Engrossed House Bill 1659.

JACKMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Paul and Zakas be added as cosponsors of Engrossed House Bill 1388.

DROZDA

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Landske be added as cosponsor of Engrossed House Bill 1324.

HERSHMAN

Motion prevailed.

SENATE MOTION

Madam President: I move that Senators Drozda and Zakas be added as cosponsors of Engrossed House Bill 1092.

DELPH

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Skinner be added as cosponsor of Engrossed House Bill 1065.

KENLEY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Landske be added as cosponsor of Engrossed House Bill 1060.

MEEKS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Errington be added as cosponsor of Engrossed House Bill 1027.

BRAY

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Delph be added as cosponsor of Engrossed House Bill 1753.

LUBBERS

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Thursday, April 5, 2007.

LONG

Motion prevailed.

The Senate adjourned at 5:17 p.m.

MARY C. MENDEL
Secretary of the Senate

REBECCA S. SKILLMAN
President of the Senate